

Message Text

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12

ACTION IO-13

INFO OCT-01 ADP-00 L-03 AF-10 ARA-11 EA-11 EUR-25 NEA-10

RSC-01 COA-02 EB-11 OIC-04 CIAE-00 DODE-00 PM-09 H-02

INR-09 NSAE-00 NSC-10 PA-03 PRS-01 SS-14 USIA-12

ACDA-19 AEC-11 AGR-20 CG-00 COME-00 DOTE-00 FMC-04

INT-08 JUSE-00 NSF-04 OMB-01 SCI-06 CEQ-02 RSR-01

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E. O. 11 652: N/ A

TAGS: PBOR, UN

SUBJ: LOS: SUBCOMMITTEE I, WORKING GROUP ON REGIME:

MARCH 16

1. SUMMARY. WORKING GROUP (WG) COMPLETED ART. XII AND
BEGAN CONSIDERATION OF ART. XIII WITH SPECIAL
ATTENTION TO ISSUE OF BENEFIT SHARING TO NON PARTIES.

2. WG ACCEPTED COMPROMISES RELATING TO ART. XII:
ADDITION TO NOTE TO INCLUDE SERVICE CONTRACTS, JOINT
VENTURES AND REVOCATION OF SERVICE CONTRACTS. FOOTNOTE
WAS ALSO ADDED TO REFLECT PREFERENCE OF USSR FOR
" REGULATION" INSTEAD OF " SUPERVISION."

3. REMAINDER OF SESSIONS DEVOTED TO ART. XIII (GENERAL
NORMS REGARDING EXPLOITATION). DEBATE CENTERED ON THREE
PARAGRAPHS ON P. 97 OF SEABED COMMITTEE REPORT.

4. US PROPOSED REMOVING BRACKETS AROUND FIRST PARAGRAPH
AND FROM AROUND WORD " PARTIES" SO THAT THAT TEXT WOULD
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PROVIDE THAT BENEFITS WOULD BE SHARED ONLY BY STATES
PARTIES TO CONVENTION. THIS PRECIPITATED LONG AND VERY

USEFUL DEBATE ON WHETHER NON- PARTIES SHOULD RECEIVE BENEFITS. PERU ARGUED THAT LIMITING BENEFICIARIES TO PARTIES WOULD UNDERMINE DECLARATION OF PRINCIPLES ARTICLE ON COMMON HERITAGE. THIS VIEW WAS SUPPORTED BY KENYA, BRAZIL, NIGERIA, GHANA AND TANZANIA.

5. INDIAN REP SAID ISSUE OF BENEFITS TO NON- PARTIES IS CRUCIAL BUT THAT IT WAS TOO EARLY IN NEGOTIATIONS TO RESOLVE. HE URGED THAT NO LOOPHOLE BE LEFT IN CONVENTION TO PERMIT NON- PARTIES ACCESS TO AREA UNDER FREEDOM OF SEAS DOCTRINE. HE STATED THAT ENTRY INTO FORCE WILL BE CRITICAL QUESTION: CONVENTION SHOULD COME INTO FORCE ONLY WHEN LARGE NUMBER OF COUNTRIES HAVE RATIFIED (50-60). LATER IN DEBATE, INDIAN REP SAID TREATY WOULD APPLY TO NON- PARTIES AS BASIC PRINCIPLES ARE ALREADY EMBODIED IN DECLARATION OF PRINCIPLES AND HE SUGGESTED THAT IT COULD BE LEFT TO MACHINERY TO TAKE CARE OF BENEFIT SHARING.

6. GYUANA, SUPPORTED BY SEVERAL OTHER DELEGATIONS, TOOK ISSUE WITH ARGUMENT THAT COMMON HERITAGE DEPENDS ON NUMBER OF RATIFICATIONS HE ARGUED THAT DECLARATION OF PRINCIPLES CONSTITUTES RECOGNITION OF PREEXISTING LEGAL PRINCIPLES. CANADA WOULD NOT COMMIT ITSELF ON BENEFITS TO NON- PARTIES, NOTING THAT IF ONLY 80 COUNTRIES RATIFY CONVENTION, IT WILL BE A FAILURE.

7. USSR SAID BENEFIT SHARING TO NON- PARTIES RAISED SERIOUS PROBLEMS. HE STATED THAT ALL STATES SHOULD BECOME PARTIES TO CONVENTION BUT HE WOULD NOT STATE SOVIET POSITION ON CONSEQUENCES OF SOME STATES NOT BECOMING PARTIES TO. HE ARGUED THAT ANY STATE WHICH DOES NOT SIGN CONVENTION IN EFFECT IS DENYING CONCEPT OF COMMON HERITAGE AND SAID HE WOULD MAKE CLEAR HIS DELEGATION POSITION ON ISSUE AT APPROPRIATE TIME.

8. US REP MADE STRONG STATEMENT TO THE EFFECT THAT ENTRY INTO FORCE ISSUE COULD BE CENTRAL TO NEGOTIATIONS, POINTING OUT THAT IF EVEN ONE STATE DOES NOT SIGN TREATY BUT ISSUES DEEP SEABED MINING LICENSES THIS WOULD NEGATE ALL EFFORTS TO REACH INTERNATIONAL AGREEMENT. HE UNCLASSIFIED

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SAID THAT TREATY MUST BE UNIVERSAL AND TO DO SO MUST ACCOMMODATE INTERESTS OF ALL STATES. US DOES NOT WANT TO SEE ONE STATE ANNUL NEGOTIATIONS, AND WILL MAKE COMPROMISES; BUT OTHERS MUST MAKE CONCESSIONS AS WELL. US HOPES TREATY WILL BIND NON- PARTIES. US REP STRESSED THAT BENEFITS MUST BE WITHHELD FROM THOSE WHO ARE NOT PARTIES; NO BENEFITS WITHOUT OBLIGATIONS. IN LATER INTERVENTION, US MADE CLEAR IT DOES NOT ACCEPT VIEW THAT COMMON HERITAGE HAS INDEPENDENT MEANING AND US CONSIDERS THAT COMMON HERITAGE

WOULD BE DEFINED BY ARTICLES NEGOTIATED. SHOULD CONFERENCE FAIL, HIGH SEAS CONVENTION WOULD APPLY TO SEABED.

9. INDIA PROPOSED ALTERNATIVE TO PARAGRAPH ONE: " THE EXPLORATION OF AREA AND EXPLOITATION OF ITS RESOURCES SHALL BE CARRIED OUT IN SUCH A MANNER AS TO PROVIDE FOR THEIR ORDERLY AND SAFE DEVELOPMENT AND RATIONAL MANAGEMENT AND EXPANDING OPPORTUNITIES IN USE THEREOF AND TO ENSURE THE EQUITABLE SHARING BY STATES (PARTIES) IN THE BENEFITS DERIVED THEREFROM, TAKING INTO PARTICULAR CONSIDERATION THE INTERESTS AND NEEDS OF DEVELOPING COUNTRIES WHETHER LANDLOCKED OR COASTAL." THIS ELICITED CONSIDERABLE BUT INCONCLUSIVE DISCUSSION. PERU PROPOSED ADDING " AND OTHER RELATED ACTIVITIES" TO FIRST LINE OF INDIAN DRAFT TEXT. US ACCEPTED FORMULA, BUT ASKED THAT PERUVIAN AMENDMENT BE PLACED IN BRACKETS. FURTHER DISCUSSION WILL CONTINUE NEXT SESSION ON MONDAY, MARCH 19.

10. WG DEVOTED CONSIDERABLE ATTENTION TO INCLUSION OF PARA. 2 ON PAGE 97 IN DRAFT INDIAN PROPOSAL FOR ART. XIII (EXPLOITATION SHOULD BE CARRIED OUT TO ENSURE CONSERVATION AND MINIMIZE PRICE FLUCTUATIONS). US STRONGLY OPPOSED INCLUSION OF ANY REFERENCE TO PRICE CONTROL S. KUWAIT, SENEGAL, IRAQ AND BRAZIL SUPPORTED THE REFERENCE, ASSERTING THAT DEVELOPING COUNTRIES DEPENDENCE ON PRIMARY PRODUCT EXPORTS NECESSITATED SOME FORM OF PRICE CONTROLS ON THE PRODUCTS FROM DEEP SEA MINING IN ORDER TO ASSURE THAT INTERESTS OF DEVELOPING COUNTRIES ARE ADEQUATELY PROTECTED. CANADA STATED THAT AS A NICKEL PRODUCER IT WAS CONCERNED WITH ECONOMIC IMPLICATIONS OF DEEP SEA MINING BUT FELT TERM " RATIONAL MANAGEMENT" IN INDIAN TEXT INCLUDED CONCEPT OF PRICE CONTROLS. US REP STATED THAT HIS DEL DID NOT DEFINE " RATIONAL MANAGEMENT" AS RELATING TO UNCLASSIFIED

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MARKETS. ACCORDINGLY, US REP PROPOSED THAT IF TERM " RATIONAL MANAGEMENT" USED IT MUST BE DEFINED IN DEFINITIONS ARTICLE. WG AGREED TO THIS. AUSTRALIA ALSO INDICATED ITS CONCERN WITH ECONOMIC IMPLICATIONS OF DEEP SEA MINING AND STATED THAT COMMODITY AGREEMENTS WHICH COVERED GLOBAL SOURCES OF SUPPLY (BOTH SEABED AND LAND-BASED) AND TOOK INTO ACCOUNT INTERESTS OF BOTH CONSUMERS AND PRODUCERS WERE OPTIMAL METHOD FOR ACHIEVING PRICE STABILITY.

11. AT CONCLUSION OF SESSION THERE WAS DISCUSSION OF PROCEDURE. BRAZIL PROPOSED THAT WG CONTINUE WITH SECOND READING OF PRINCIPLES AND AT SAME TIME BEGIN FIRST READING OF MACHINERY PAPER. PERU URGED THAT WG COMPLETE PRINCIPLE PAPER FIRST. ISSUE WAS LEFT UNRESOLVED.
PHILLIPS

UNCLASSIFIED

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